

REMARKS

Claims 1-21 and 32-35 are pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

1. Rejections Based on the Prior Art

a. Recapitulation of the Invention¹

The invention relates to a composite bag such as a so-called “half and half” bag having a first side wall formed at least in part from a synthetic resin mesh material and a second side formed from a synthetic resin film material. A reinforcing strip extends horizontally along the upper end portion of the mesh side wall of the bag. The reinforcing strip overlaps the upper edge of the first side wall such that it is joined to the first side wall through a horizontal seam positioned well beneath the top edge of the reinforcing strip to form an extension that protrudes well above (e.g., 1/2 inch to 1-1/2 inches or even considerably more, such as several inches or more) the upper edge of the mesh side wall. In order to strengthen the seam at the sides of the bag, the side edges of the reinforcing strip are joined to the second, film side wall along at least most of the vertical extent of the extension. This film-to-film bond is considerably stronger than a bond through an intermediate mesh layer, as occurs along the remainder of the side seams of

¹ This Section 1a is intended to provide the Examiner with some background information on the state of the art and applicant's contribution to it. It is *not* intended to distinguish specific claims from the prior art. That task is performed in Section 1b below.

the bag. In addition, the relatively long extension provides an improved contact point for suction cups or other equipment used on automated bag filling equipment to open a bag during a bag filling process.

b. Rejection of Claims

The rejection of claims 1, 4-7, and 11-14 under 35 U.S.C. § 103(a) as being obvious over Huertas Spanish Publication No. 1,033,033 in view of either Shigeru Japanese Publication No. 2000-142712, Christensen U.S. Patent No. 3,506,185, or Bell U.S. Patent No. 5,882,120 is traversed, as the combination of these references fails to teach or suggest the invention recited in the previously amended claims.

For instance, claim 1 requires, *inter alia*, a reinforcing strip that extends along a first (mesh) side wall and that is attached at its side edges to the second (film) side wall. As discussed above, film-to-film bond provided by this attachment is considerably stronger than a bond through an intermediate mesh layer, as occurs along the remainder of the side seams of the bag. In addition, the relatively long extension provides an improved contact point for suction cups or other equipment used on automated bag filling equipment to open a bag during a bag filling process.

The Heurtas bag has a first (mesh) side wall 2 and a second (film) side wall 1. A plastic strip 3 is attached to the mesh side wall 2. Perforated lines 5 are formed in the strip 3. However, as the Examiner admits, Huertas' strip 3, even if properly considered a reinforcing strip, is *not*

attached at its side edges to the second (film) side wall, as required by claim 1. It therefore lacks the above-noted benefits of the claimed invention.

The Examiner cites the Shigeru, Christensen, or Bell references to allegedly cure this deficiency, by stating "Shigeru or Christensen or Bell each teach it is known to provide a bag with its side edges sealed together along the entire length of the bag." Nevertheless, none of these references disclose a half-and-half bag, i.e., a bag with a first side wall made formed from a *mesh* material and a second side wall formed from a *resin* material, as claim 1 recites. Therefore, the teachings of these references are not applicable to the claimed invention. Specifically, the Shigeru, Christensen, or Bell references fail to teach or suggest a reinforcing strip that extends along an upper edge of a first (mesh) side wall and that is joined to a second (film) side wall, as claim 1 requires. This is due to the fact that none of the bags disclosed by the Shigeru, Christensen, or Bell references is a half-and-half bag.

For instance, the Shigeru bag has two *mesh* sides 4. Therefore, its surface sheet 2 does not extend along a first (mesh) side and is not joined to a second (film) side, as claim 1 requires. Moreover, the surface sheets 2 are attached not to the top of the bag but to the *entire* side walls of the bag to permit the bag to be sealed. The sheets 2 extend above the mesh sides 4 only to provide a chuck 3, of the type commonly found on Zip-Lock® bags, on a mesh bag. The strips 2 are sealed to one another only beneath the chuck 3 and only to provide a sealed bag once the chuck is closed. The Huertas bag, being a shopping bag having hand openings, lacks any need for such a chuck or to provide a sealed bag and, therefore, would lack any need to attach its strip

3 to the film side wall 1. Even if there were some incentive to provide a chuck as in the Shigeru bag, the routiner would have been motivated to attach the strip to the film side wall 1 only beneath the chuck rather than along at least a majority of the width of any extension formed by that strip, as recited in claim 1.

The Christiansen bag has sides 2, 3 which are made from a polythene foil. Reinforcing ribbons 6 and 7 are provided along the upper edges of the sides 2, 3 to strengthen finger openings 8 and 9. The sides 2, 3 of the bag are joined along one continuous vertical weld 11 and 12. (col. 3, lines 9-37) Therefore, reinforcement ribbons 6 and 7 do not extend along a first (mesh) side and are not joined to a second (film) side, as claim 1 requires. The ribbons 6 and 7 also do not extend *above* either of the foil sides. As such, the side edges of reinforcement ribbons 6, 7 of Christensen could not possibly suggest joining a reinforcement strip extending *above the top* of one side of a bag directly to the opposite side wall of the bag as claim 1 requires.

Bell discloses a bag 1 that includes first and second opposed side walls, panel sections or panels 4 and 5, and a base or bottom gusset or gusset member 8 having holes 9 therein. However, as in Shigeru and Christensen, and unlike in the present invention, the panels 4 and 5 are *not* made of different materials. Thus, the bag construction 1 is *not* a composite bag. Thus, the teachings of Bell are not applicable to those of Huertas. Nevertheless, even if the references were combined, the invention would not result. The bag 1 of Bell includes an open, bottom end 12 and a closed, top end 11 having a flap 15 thereon with a handle aperture 16 therein. (col. 4, lines 36-48). As can be seen from Figure 4, both panels 4 and 5 include a flap 15 thereon, and

the flaps 15 are attached directly to each other. Therefore, a reinforcement strip on one side of the bag is not joined *directly* to the other side of the bag, as claim 1 requires. Identical panels are instead sealed to one another, and only for reasons inapplicable to Huertas' bag.

Hence, none of Fox, Shigeru, Christensen, and Bell, can cure the basic deficiency in the teachings of Huertas because they, like Huertas, all lack (1) a composite film/mesh bag having (2) a reinforcing strip on the mesh side of the bag that (3) extends above the mesh material and (4) is joined to the film side wall (as opposed to another extension) as claim 1 requires. Claim 1, which recites a composite bag having improved seam strength when compared to earlier composite bags, is neither disclosed nor suggested by the prior art relied upon in the rejection. Claim 1 therefore believed to be non-obvious over the cited prior art. Withdrawal of the rejection of claim 1 and allowance are believed to be in order and are respectfully requested. The dependent claims, including claims 2, 3, and 8-10, which also additionally rejected in view of Fox, are believed to be in condition for allowance for at least the same reasons that claim 1 is allowable.

Claim 15 requires, *inter alia*, a reinforcing strip that extends along a first (mesh) side and that has side edges that are thermally bonded directly to a second (film) side. In addition, claim 15 requires "at least one of said reinforcing strip and said second side wall has holes formed therein for mounting the bag on the wicket pins of the bag filling equipment." The Examiner admits that Huertas fails to disclose a reinforcing strip is attached at its side edges to the second side wall and cites the secondary references listed above or alternatively, Fox as teaching wicket

holes. The Fox bag, however, cannot cure the basic deficiency in Huertas, i.e., a lack of reinforcing strip that extends along a first (mesh) side and is thermally bonded directed to a second (film) side. Instead, reinforcing strip 32 of Fox is bonded only to the mesh side of the bag.

Claim 20 recites a bag having a first (mesh) side wall and a second (film) side wall. Claim 20 additionally requires a strip of a synthetic resin film extending along the first (mesh) side wall. Claim 20 still additionally requires the second (film) side wall to protrude above an upper edge of the reinforcing strip. As the Examiner admits, Huertas fails to teach the second side wall upper edge protruding above the upper edge of the reinforcing strip. The Examiner cites Cammack to cure this deficiency. However, Cammack cannot cure this deficiency, as the Cammack bag 10 lacks a second (film) side wall that protrudes above an upper edge of the reinforcing strip and that extends along a first (mesh) side wall, as claim 20 requires. This is due to the fact that the Cammack bag 10 is not a half-and-half bag. Instead, its bottom portion 20 is made from a net material. The other rejections of claims 32-35 that rely on in part relying on Cammack to cure deficiencies in the other cited references are equally deficient, as is the rejection of claim 21 as being obvious over Huertas in view of Cammack and one of Shigeru or Christainsen or Bell.


2. Conclusion

It is submitted that claims 1-21 and 32-35 are in compliance with 35 U.S.C. § 103 and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

A check in the amount of \$475.00 is enclosed in payment of the fee associated with a request for a three-month's extension of time by a *small* entity, which applicant hereby makes. Should the Examiner consider any additional fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170. The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

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Respectfully submitted,


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